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OFFICE OF PETITIONS

In re
Robert K. Ellis
Application No. 09/954,447
Filed: September 14, 2001
Patent No. 6,843,177
Issued: January 18, 2005

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)," filed March 21, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred ninety-six (196)** days.

On January 18, 205, the above-identified application matured into U.S. Patent No. 6,843,177. The patent issued with a Patent Term Adjustment of seventy-six (76) days. Patentee points out that he was improperly assessed applicant delay of one hundred twenty (120) days for previously filing an application for patent term adjustment on April 19, 2004.

Patentees state that the patent is not subject to a terminal disclaimer.

The Office determined a patent term adjustment of seventy-six (76) days based on an adjustment for PTO delay of one hundred fifty-one (151) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and one hundred fifty-two (152) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. 1.703(a)(6), reduced by Applicant's delay of sixty-four (64) and forty-three (43) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and one hundred twenty (120) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(1). The adjustment of 120 days is at issue.

Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application.

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. § 1.322 is appropriate.

Given the basis for granting this petition, no fee was required, and none has been charged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred ninety-six (196)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

*Karin Ferriter
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Office of Deputy Commissioner
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Enclosure: copy of draft Certificate of Correction